

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

1 UNITED STATES OF AMERICA,)	AU:23-CV-00853-DAE
)	
2 Plaintiff,)	
)	
3 v.)	AUSTIN, TEXAS
)	
4 GREG ABBOTT, ET AL.,)	
)	
5 Defendants.)	AUGUST 6, 2024

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE DAVID A. EZRA

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25 Proceedings recorded by computerized stenography, transcript
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09:10:45 1 (Open court)

09:10:45 2 THE CLERK: AU:23-CV-853, *United States of*
09:10:49 3 *America v. Greg Abbott, et al.*

09:10:53 4 THE COURT: All right. Good morning to all of
09:10:55 5 you. Can we have appearances, please.

09:11:00 6 MR. LYNK: Good morning, Your Honor. For the
09:11:01 7 United States, Brian Lynk from the Department of Justice.
09:11:05 8 With me are Andrew Knudsen, Kimere Kimball,
09:11:09 9 Bryan Harrison, as well as Mary Kruger and Landon Wade of
09:11:15 10 the U.S. Attorney's Office.

09:11:18 11 MS. AL-FUHAID: Good morning, Your Honor.

09:11:19 12 THE COURT: Good morning.

09:11:19 13 MS. AL-FUHAID: Munera Al-Fuhaid on behalf of
09:11:19 14 Defendants Governor Greg Abbott and the State of Texas.
09:11:23 15 And with me are my colleagues from the Texas Attorney
09:11:25 16 General's Office, David Bryant, Johnathan Stone,
09:11:29 17 Zach Berg, Kyle Tebo, Ryan Walters.

09:11:42 18 THE COURT: And my buddy back there in the
09:11:42 19 courtroom, good to see you. You want to make your
09:11:42 20 appearance?

09:11:42 21 MR. SULLIVAN: Sure. James P. Sullivan,
09:11:45 22 General Counsel for the Governor of Texas, Greg Abbott.

09:11:47 23 THE COURT: Good. Good to see you.

09:11:49 24 MR. SULLIVAN: Thanks, Judge.

09:11:49 25 THE COURT: Okay. Well, we've had an eventful,

09:11:55 1 if not entirely clear opinion or a bunch of opinions, out
09:12:01 2 of the Fifth Circuit. And one of the things we need to
09:12:09 3 do today is decide how we're going to go forward.

09:12:11 4 I think the first thing we have to keep in mind
09:12:15 5 is that the *en banc* ruling was a ruling on a preliminary
09:12:19 6 injunction, not the merits. We haven't had the trial in
09:12:21 7 this case yet, so there is room for additional evidence.

09:12:25 8 Now, to the extent that the *en banc* ruling laid
09:12:29 9 out legal principles, those legal principles of course
09:12:32 10 are binding. But the problem is -- and several judges
09:12:41 11 who have read the opinions, and some law professors I
09:12:45 12 think have also weighed in -- we have a nine-nine split.

09:12:56 13 So you have the majority, which is nine judges,
09:13:06 14 for the -- for most of it, but then you have seven
09:13:13 15 judges -- seven or eight judges; I'm not sure -- who
09:13:18 16 Judge Richman, who did not agree with the majority. She
09:13:23 17 concurred in the judgment, but she did not agree with the
09:13:26 18 majority on the test for navigability. She took a
09:13:32 19 dispute with that. And Judge Ho didn't say anything
09:13:35 20 about it at all. So you actually have, if you look at
09:13:41 21 that issue, what could be said to be a nine-nine split.

09:13:48 22 I'm not sure about that. I'm not taking that
09:13:51 23 position, okay? I don't know. But it's something that
09:14:01 24 the parties are going to have to address.

09:14:04 25 Typically, if you have -- for instance, I'll

09:14:08 1 give you an example. I was on a panel. I sit regularly
09:14:12 2 with the Ninth Circuit Court of Appeals, and have for
09:14:15 3 over 35 years. And I was on a panel that made a very
09:14:20 4 important ruling involving the State of Oregon, and that
09:14:35 5 was appealed to the Supreme Court. Justice Kagan had to
09:14:46 6 recuse herself because she had been Solicitor -- I guess
09:14:49 7 she had been -- I'm not sure. I think she was Solicitor
09:14:52 8 General, right? at the time. So she had to recuse
09:14:56 9 herself, and the Supreme Court split four-four. The end
09:14:59 10 result was our ruling, the Ninth Circuit ruling, was
09:15:03 11 affirmed.

09:15:07 12 Now, we have done some research of our own on
09:15:16 13 this, and I think what we have to do is there's going to
09:15:20 14 have to be some parsing of these opinions and looking at
09:15:24 15 them carefully. But the point is that it isn't as clear
09:15:28 16 cut as one would seem, and I think both parties need to
09:15:32 17 understand that. I think we need to look at it very
09:15:36 18 carefully.

09:15:36 19 And I think Governor Abbott, who is himself an
09:15:42 20 attorney and a former State Supreme Court Justice, a very
09:15:46 21 bright man, he's made, obviously, a statement in support
09:15:51 22 of the decision, but he's been very -- otherwise, very
09:15:55 23 reserved, I thought, which leads me to believe that he
09:16:00 24 understands that this isn't quite as clear-cut as one
09:16:03 25 might think.

09:16:04 1 I don't know. I could be wrong here. But it
09:16:11 2 doesn't matter, quite frankly, because this case, I
09:16:15 3 predict -- and I'm a good predictor. I've had four
09:16:23 4 cases -- three or four cases that I said -- that I've
09:16:25 5 decided that I said would go to the Supreme Court, and
09:16:28 6 all four of them did.

09:16:34 7 I did okay at the Supreme Court except in
09:16:41 8 bump stock. I got -- I didn't do well in bump stock, but
09:16:45 9 I still think I was right on bump stock. The others the
09:16:52 10 Fifth Circuit was reversed. I was reversed, and then
09:16:55 11 they were reversed by the Supreme Court. The most recent
09:16:59 12 one was the 1983 case involving Castle Hills. And had
09:17:06 13 good dissent from, actually. Judge Oldham wrote a strong
09:17:10 14 dissent from the panel opinion. And think I -- Judge
09:17:14 15 Oldham and I were right, and the Supreme Court thought so
09:17:16 16 also.

09:17:16 17 But this case will end up, I think, in the
09:17:19 18 Supreme Court. So you have to take the long view. And
09:17:24 19 for sure SB 4 will end up at the Supreme Court. So we
09:17:29 20 have to take the long view in this case and remember
09:17:35 21 that, whatever we do, we have to do with a light of
09:17:40 22 trying to create the very best record we can, both sides,
09:17:45 23 because it isn't going to end here.

09:17:50 24 Whatever I do, we don't know whether we have a
09:17:53 25 jury yet. You know, that's still up there. And who

09:18:01 1 knows? I don't know why the State of Texas would
09:18:08 2 actually want a jury in this case, but all right. Unless
09:18:13 3 it was just a way to delay the case. I don't know. I'm
09:18:16 4 not sure. I would hope not. But a lot of people have
09:18:26 5 been shaking their heads on that one.

09:18:28 6 You know, I haven't ruled entirely against the
09:18:30 7 State of Texas in this case. I dismissed a cause of
09:18:33 8 action brought by the -- by the United States Government
09:18:41 9 in this case. It wasn't mentioned, I don't think, in the
09:18:44 10 *en banc*, but it did happen.

09:18:45 11 So here we are. Do we have any additional
09:18:55 12 discovery that needs yet to be done before we go to
09:18:58 13 trial?

09:18:58 14 MS. AL-FUHAID: No, Your Honor.

09:18:59 15 THE COURT: You don't?

09:19:01 16 MS. AL-FUHAID: Not from our perspective.

09:19:04 17 MR. LYNK: Your Honor, we're not requesting
09:19:05 18 that at this time. Now, we are of course looking, as you
09:19:10 19 mentioned, at the opinion carefully. We're also looking
09:19:13 20 at -- we'll be making our evaluation as to whether to
09:19:17 21 seek further appeal from the opinion. I think as part of
09:19:20 22 that, of course, we're going to reevaluate the evidence
09:19:23 23 that we have in light of the discussions in the opinion.
09:19:27 24 And so I can't rule that out entirely.

09:19:29 25 THE COURT: Yeah. I want to make it very clear

09:19:31 1 that I am personally not saying there is a definitive
09:19:36 2 split here. What I'm saying is that has -- that is the
09:19:42 3 chatter, okay? There are law professors and judges who
09:19:47 4 have said that Judge Willett's opinion is not
09:19:51 5 precedential. Now, I'm not saying that. I want to make
09:19:55 6 that very, very clear.

09:19:58 7 MR. LYNK: Yes.

09:19:58 8 THE COURT: I don't want to read a newspaper
09:20:01 9 article saying Judge Ezra said Judge Willett's opinion is
09:20:05 10 not precedential. I didn't say that, and I'm not saying
09:20:08 11 it.

09:20:08 12 MR. LYNK: Understood, Your Honor. But just on
09:20:10 13 your question of discovery, I think -- again, we're not
09:20:12 14 asking for it today, but I think we'd like the
09:20:14 15 opportunity to give you a firmer answer once we evaluate.

09:20:16 16 THE COURT: Okay. Let me explain to you, now,
09:20:19 17 the parties had requested a 60-day continuance. And you
09:20:22 18 might be wondering why there was a joint motion filed.
09:20:26 19 Or I guess the State had agreed to it or something?

09:20:29 20 MS. AL-FUHAID: We did not oppose the request,
09:20:31 21 Your Honor.

09:20:31 22 THE COURT: You didn't oppose the request.
09:20:33 23 Okay. Well, that's agreeing to it.

09:20:36 24 So why -- I don't know what -- is that --
09:20:41 25 that's kind of a --

09:20:43 1 Anyway, so the State didn't oppose the request.
09:20:48 2 The government made it. Why -- why 90 days instead of 60
09:20:52 3 days? The reason is you have to prepare for trial. I
09:20:59 4 used to be a trial lawyer in my time. I don't know how
09:21:03 5 long it will take the panel that is selected -- I don't
09:21:09 6 even know who the panel is in this case. Do we know?

09:21:12 7 MS. AL-FUHAID: We're not aware, Your Honor.

09:21:14 8 THE COURT: Yeah. I don't think we even know
09:21:16 9 Who the panel is. I don't know how long it's going to
09:21:22 10 take them. I mean, I'm still waiting even to this day
09:21:25 11 for a panel ruling on the SB 4 case. And I'm not chiding
09:21:28 12 the Fifth Circuit for that; it's a difficult issue. But
09:21:31 13 they haven't come down with an opinion in that, and that
09:21:33 14 was argued quite some time ago.

09:21:36 15 So sometimes it takes a while to get these
09:21:39 16 rulings out. And I know that because, as I said, I sit
09:21:42 17 on the Ninth Circuit. In fact, I'm about to go off to
09:21:46 18 Portland to sit on the Ninth Circuit again. We have some
09:21:49 19 important cases we're going to be deciding. So I'm
09:21:52 20 not -- I'm not critical at all. But we don't know.

09:21:56 21 And my concern was that, once you get a ruling,
09:22:01 22 you need to prepare for trial. And sometimes you prepare
09:22:04 23 differently if you're going to try the case to a jury
09:22:11 24 versus a judge. And I don't want to put you in the same
09:22:15 25 kind of squeeze play the State likes to put me in.

09:22:21 1 By the way, I think that's a bad practice. If
09:22:24 2 I were you, I would not continue -- I would talk to
09:22:26 3 whoever is in charge of that and not do these letters to
09:22:30 4 the judge saying, if you don't rule by tomorrow at 5:00,
09:22:33 5 I'm doing this. It kind of sounds like a threat, and
09:22:37 6 federal judges don't do threats well. I think it's not a
09:22:45 7 good idea to do that.

09:22:46 8 I have never in my entire 35, almost 36 years,
09:22:50 9 on the bench had it done to me, except by the State of
09:22:53 10 Texas twice now. So I think -- and I've handled big
09:22:59 11 cases. So I think it's a better practice not to do that.
09:23:04 12 Now, does it prejudice me against the State? Absolutely
09:23:08 13 not. I mean, I made my ruling for the State in this case
09:23:14 14 after they did it the first time. But I just think it's
09:23:18 15 not a good practice, and it doesn't look good. It
09:23:22 16 doesn't look good to me, and I don't even think it looks
09:23:25 17 good to the Fifth Circuit.

09:23:31 18 It would be me like putting an order out
09:23:33 19 saying, you know, if the Fifth Circuit doesn't do
09:23:36 20 something by X number hours, I'm going to do this, this,
09:23:40 21 or this. And I think a Fifth Circuit Judge would look at
09:23:44 22 that and say, Who does this guy think he is? So I think
09:23:46 23 it's not a good practice, and I would really kind of
09:23:48 24 avoid it.

09:23:49 25 If you intend to file a motion or a writ of

09:23:53 1 mandamus and you want to let the judge know, I would just
09:24:02 2 say, We are contemplating filing a writ of mandamus in
09:24:08 3 this matter, period. And if you're going to file it,
09:24:11 4 file it five minutes after you send me the notice. Or
09:24:14 5 file it two days after. But don't say, if you don't do
09:24:17 6 it by X hour, I'm going to drop the ball on you. I think
09:24:22 7 it just doesn't play well.

09:24:27 8 But that's an aside, all right? That's just a
09:24:30 9 little bit of advice from somebody who's been a lawyer
09:24:36 10 for 52 years.

09:24:39 11 So I wanted to be sure that both sides had a
09:24:44 12 full and ample opportunity to be prepared for whatever
09:24:49 13 kind of trial we get. We may get a ruling. I don't know
09:24:55 14 if they're going to have -- do they have oral argument on
09:24:57 15 this mandamus?

09:24:58 16 MS. AL-FUHAID: Right now no oral argument has
09:25:00 17 been scheduled, but I believe they could if they chose to
09:25:02 18 have an argument.

09:25:03 19 THE COURT: Sure. Did they have oral argument
09:25:06 20 the last mandamus, the one that they denied? The State
09:25:07 21 of Texas filed a mandamus the last time, and it was
09:25:10 22 denied.

09:25:11 23 MS. AL-FUHAID: They did not.

09:25:12 24 THE COURT: They did not have -- I think they
09:25:14 25 did, didn't they?

09:25:16 1 MR. SULLIVAN: They had an emergency oral
09:25:18 2 argument remotely the day after from the U.S. Supreme
09:25:23 3 Court.

09:25:23 4 MS. AL-FUHAID: I'm sorry, Your Honor. I stand
09:25:24 5 corrected.

09:25:29 6 THE COURT: That's okay. Listen, this has been
09:25:31 7 crazy. This has been crazy.

09:25:33 8 So the only reason I mentioned the chatter
09:25:35 9 about the nine-nine split is because I want you to be
09:25:39 10 ready for that. I want you to argue it and be able to
09:25:41 11 prepare it. If you sail along thinking, oh, well, we
09:25:46 12 won, maybe you didn't win as much as you thought you won
09:25:49 13 or maybe you did. I don't know. And I don't want the
09:25:55 14 State -- the Federal Government to be oblivious about
09:26:01 15 this either. I mean, this is an important issue. We
09:26:04 16 need to look at it.

09:26:05 17 There's an interesting water -- it's a water
09:26:07 18 case where the Supreme Court made it -- wrote a decision.
09:26:13 19 The case is -- my good law clerk Sam Krevlin found it --
09:26:20 20 *Rapanos v. United States*. It's not that old, really, in
09:26:22 21 Supreme Court terms. It's a 2006 decision at 547 U.S.
09:26:28 22 715, where there was this kind of a plurality. And one
09:26:35 23 of the justices agreed with the judgment but didn't go
09:26:38 24 along with all of the reasoning.

09:26:42 25 So you had kind of this four-four -- I mean,

09:26:46 1 you had four-four and then somebody else over here doing
09:26:50 2 something different. And two circuits did not follow the
09:26:56 3 four opinion, the, quote/unquote, majority opinion,
09:27:01 4 didn't follow it. And -- because they deemed it
09:27:05 5 non-precedential. And there's another case called *June*
09:27:10 6 *Medical Services v. Russo* which you might want to look
09:27:14 7 at. That's another one.

09:27:15 8 So there are these cases out there, and we need
09:27:21 9 to -- we need to look at it and I need to make a
09:27:23 10 decision. I mean, I might ultimately decide that, under
09:27:31 11 the circumstance of this case, that Judge Willett's
09:27:34 12 opinion controls. I might very well decide that, or I
09:27:43 13 may be convinced otherwise.

09:27:44 14 But let's just say there are law professors and
09:27:47 15 other judges out there who feel that isn't the case. And
09:27:51 16 I have not -- and I promise you this is true. I have not
09:27:54 17 made a decision one way or the other. I want to hear
09:27:59 18 from you. I want to hear from the lawyers. I want to
09:28:01 19 look at it much more carefully.

09:28:05 20 THE COURT: You want to introduce yourself,
09:28:11 21 because the record doesn't know who you are.

09:28:11 22 MR. STONE: Yes, Your Honor. I'm
09:28:12 23 Johnathan Stone. I just wanted to get a little follow-up
09:28:15 24 on that and get a little clarity. Are you wanting us --
09:28:18 25 are you going to enter a briefing schedule related to

09:28:20 1 this issue of what is the law of the case, and do you
09:28:22 2 want us to get with the plaintiff's counsel in this case
09:28:25 3 and see if we're in agreement on what is the law of the
09:28:28 4 case going forward? Or, if we disagree, do you want that
09:28:30 5 briefed as well?

09:28:31 6 THE COURT: Yeah. I think that would be --
09:28:32 7 that's one of the reasons we're here, is to try to figure
09:28:35 8 all this out. I mean, the United States might agree with
09:28:38 9 you or they may disagree. I mean, they're going to have
09:28:43 10 to look at it very carefully. I mean, this is a tricky
09:28:47 11 one, and, ultimately, this may be a decision made by the
09:28:55 12 Supreme Court in this case.

09:28:55 13 But this case is not going to go to the Supreme
09:28:58 14 Court, I don't think, on this record. I think it will go
09:29:01 15 after trial. They've been a little bit hesitant to take
09:29:06 16 things up on partial records recently. But I don't know.
09:29:09 17 You know a lot more. You live in Washington. I don't.
09:29:17 18 Although my cases seem to get there a lot.

09:29:20 19 I'm really happy, by the way, and this has
09:29:24 20 nothing to do with this case.

09:29:24 21 (Discussion off the record)

09:30:12 22 THE COURT: All right. What kind of a briefing
09:30:15 23 schedule, since we're going to allegedly go to trial --
09:30:20 24 by the way, 90 days would have been the day after the
09:30:24 25 election, but I moved it one more day past. Because I

09:30:29 1 didn't want anybody, no matter what their view was, to be
09:30:32 2 so depressed or so happy that they couldn't focus,
09:30:37 3 depending upon what happens in the presidential election,
09:30:41 4 assuming we even know by then, right? Sometimes you
09:30:48 5 don't.

09:30:48 6 I would certainly like to make a decision on
09:30:51 7 this prior to trial. I don't think we want to go to
09:30:54 8 trial not knowing whether it's, as Judge -- the
09:31:00 9 majority -- the dissents plus Judge Richman feel that the
09:31:07 10 definition by Judge Willett was too narrow and that it's
09:31:14 11 you can use "across the river" or whether the majority,
09:31:21 12 which says you can't go "across the river."

09:31:23 13 I know what you do in a lake. What do you do
09:31:26 14 with a lake? You know, there's a lot of lakes that are
09:31:30 15 navigable waters in the United States. What do you do
09:31:32 16 with a lake if you can't go across? Let's say the lake
09:31:36 17 is long and you go across, what do you? It's a problem.

09:31:47 18 Yes, ma'am?

09:31:47 19 MS. AL-FUHAID: Your Honor, may I make a
09:31:48 20 suggestion? The United States had requested a 60-day
09:31:51 21 stay of proceedings, and we agree with that request.
09:31:55 22 Would Your Honor be amenable to 60 days from now as
09:32:00 23 submitting briefing on this issue, and then that would
09:32:02 24 give them a chance to determine how they want --

09:32:05 25 THE COURT: Yeah. Hopefully by then we will

09:32:07 1 have heard on the mandamus petition as to whether we'll
09:32:09 2 have -- whether we have a jury or not doesn't matter on
09:32:13 3 this issue.

09:32:14 4 MS. AL-FUHAID: If that is agreeable to them.

09:32:16 5 MR. LYNK: Your Honor, I think a 60-day
09:32:18 6 interval to brief you on this question makes sense as
09:32:21 7 well.

09:32:21 8 THE COURT: Yeah. That's much longer than we
09:32:23 9 would normally do. You know ...

09:32:29 10 MR. LYNK: Your Honor, and the reason --

09:32:31 11 THE COURT: Yeah. No. I'll tell you what.
09:32:33 12 I'm going to give you 45 days so I've 15 days to look at
09:32:37 13 it before we get to the 60-day point, okay? Because I
09:32:40 14 really need to -- I need to do a lot of work on this
09:32:44 15 myself.

09:32:44 16 MS. AL-FUHAID: And would this be simultaneous
09:32:46 17 briefing, Your Honor?

09:32:47 18 THE COURT: Yes. We know what the issue is.
09:32:49 19 We're not going to go back and forth like a ping-pong
09:32:52 20 tournament.

09:32:53 21 MR. LYNK: Understood, Your Honor.

09:32:55 22 THE COURT: Friday, September 20th.

09:32:58 23 MR. LYNK: Do you -- are you proposing a page
09:32:59 24 limit for each side's brief on this?

09:33:02 25 THE COURT: Generally, 35 pages.

09:33:05 1 MS. AL-FUHAID: Thank you, Your Honor.

09:33:06 2 THE COURT: That should be enough.

09:33:16 3 MR. LYNK: And, just to be clear, you just want
09:33:17 4 a single filing from each side?

09:33:19 5 THE COURT: Yes.

09:33:19 6 MR. LYNK: Should we reply to each other?

09:33:20 7 THE COURT: No.

09:33:22 8 MR. LYNK: Okay. Thank you. No.

09:33:23 9 THE COURT: No. No. Say everything you need
09:33:25 10 to say right then and there. Yeah. She was just asking
09:33:52 11 me about the pretrial deadlines and so forth, which
09:33:54 12 obviously have to be continued. So you'll get that in
09:33:57 13 the order.

09:33:58 14 MS. AL-FUHAID: Thank you, Your Honor.

09:33:59 15 THE COURT: All right. Anything else?

09:34:07 16 MR. LYNK: Nothing that the United States can
09:34:12 17 think of, Your Honor.

09:34:13 18 MS. AL-FUHAID: Nothing from Texas at the
09:34:14 19 moment, Your Honor. Thank you.

09:34:15 20 THE COURT: Let me again make myself very
09:34:18 21 clear, because for some reason I've been misquoted and
09:34:25 22 people have jumped to conclusions. I have not reached
09:34:29 23 any decision as to what or even if there is an issue with
09:34:34 24 respect to Judge Willett's majority opinion. I'm not
09:34:40 25 suggesting here that it isn't precedential, all right? I

09:34:46 1 don't know.

09:34:46 2 I'm saying that there have been voices who have
09:34:51 3 said that because of the split, and I don't know. As I
09:35:01 4 look at it, I think that it's something that we need to
09:35:04 5 work out and I need to make a ruling on. And then that
09:35:10 6 becomes an appealable ruling one way or the other.
09:35:16 7 Unless the parties fully agree, and I may not even agree
09:35:17 8 with the parties.

09:35:27 9 I will tell you that the -- I had a bankruptcy
09:35:30 10 appeal that went to the Supreme Court where I disagreed
09:35:32 11 with the parties, and the -- and the Fifth Circuit agreed
09:35:35 12 with the parties and the Fifth Circuit was reversed
09:35:38 13 nine-zero. So I'm glad I didn't agree with the parties.

09:35:42 14 So I think we need to be very careful here. I
09:35:50 15 am not taking a position on this at this time. I'm just
09:35:55 16 saying that I needed to raise it because it's there.
09:36:04 17 And, I mean, the one -- the one opinion we don't need to
09:36:10 18 worry about is Judge Ho's, because he was off by himself
09:36:13 19 and nobody followed anything he did. And I'm not saying
09:36:18 20 that in a derogatory way, but it just -- he didn't
09:36:22 21 address this issue at all. So we have to look at the
09:36:27 22 other -- we have to look at the other opinions.

09:36:32 23 Yes, sir?

09:36:32 24 MR. LYNK: Your Honor, I did having something.
09:36:35 25 I think you mentioned you'll be issuing an order that

09:36:37 1 makes clear the pretrial deadlines are continued.

09:36:39 2 THE COURT: Right.

09:36:40 3 MR. LYNK: There was some filings yesterday.

09:36:42 4 Can we assume that, for the moment, those matters are
09:36:45 5 stayed?

09:36:45 6 THE COURT: I haven't seen those filings. I
09:36:47 7 just got here.

09:36:48 8 MR. LYNK: Okay.

09:36:49 9 THE COURT: What are those filings?

09:36:51 10 MS. AL-FUHAID: There was a motion related --

09:36:52 11 THE COURT: You didn't send me another filing
09:36:54 12 giving me 48 hours, did you, or 24 hours or 10 hours?

09:36:58 13 MS. AL-FUHAID: No, Your Honor.

09:36:59 14 THE COURT: I'm wasting my time sitting here.

09:37:01 15 MS. AL-FUHAID: No, Your Honor. Texas had some
09:37:05 16 lingering pretrial motions that it intended to file, and
09:37:09 17 we filed them yesterday. We were unsure as to whether
09:37:13 18 this conference --

09:37:13 19 THE COURT: What are those motions? Can you
09:37:15 20 give me --

09:37:16 21 MS. AL-FUHAID: There's a motion to preclude
09:37:18 22 one of the US's experts being presented in their case in
09:37:22 23 chief as opposed to a rebuttal expert. And was there ...

09:37:28 24 MR. BRYANT: Your Honor, the others are our
09:37:29 25 response to motions in limine filed by --

09:37:31 1 THE COURT: Oh. The motions in limine ones I'm
09:37:33 2 not so worried about. I'm going to -- I think it's been
09:37:41 3 referred to the magistrate. It automatically gets
09:37:44 4 referred.

09:37:45 5 MS. AL-FUHAID: Oh, okay. Thank you,
09:37:47 6 Your Honor.

09:37:48 7 THE COURT: And then the magistrate will make
09:37:51 8 a -- Judge Howell will make a preliminary ruling on it,
09:37:54 9 and then it can be appealed to me. As long it doesn't
09:38:00 10 have to do with the merits.

09:38:02 11 MS. AL-FUHAID: Well, Your Honor, what we were
09:38:03 12 unsure about, the reason we wanted to get those pretrial
09:38:06 13 filings, we were unsure as to whether Your Honor was
09:38:08 14 going to grant the United States's request for a stay at
09:38:11 15 this conference.

09:38:12 16 THE COURT: Oh, you mean --

09:38:13 17 MS. AL-FUHAID: We got those in before --

09:38:14 18 THE COURT: No, I don't want to -- I put the
09:38:17 19 trial date off. I don't want to stay that. I mean,
09:38:22 20 there's no reason I can't rule on an expert designation.
09:38:32 21 I don't see that as, in any way, shape, or form, having
09:38:34 22 any bearing.

09:38:36 23 I mean, look. The truth of the matter is, if
09:38:41 24 the opinion had gone a different way, we'd be in trial
09:38:44 25 today, right?

09:38:48 1 MR. LYNK: Correct. Your Honor, there were --
09:38:52 2 there was at least one ruling as to which we had been
09:38:56 3 preparing to file a notice of objections to the
09:38:59 4 magistrate judge ruling.

09:39:00 5 THE COURT: Okay.

09:39:01 6 MR. LYNK: Is that something that we should
09:39:02 7 proceed with on a normal schedule?

09:39:05 8 THE COURT: Yes. Yes. Don't give me a
09:39:07 9 vacation. I'm not entitled to it.

09:39:09 10 MR. LYNK: Understood. On August 2nd, on
09:39:12 11 Friday, obviously, there were a number of things that
09:39:14 12 originally were due and we understood those were
09:39:16 13 suspended as of late last week in the circumstances. How
09:39:20 14 are you going to --

09:39:21 15 THE COURT: What were those?

09:39:22 16 MR. LYNK: Generally, the response to the July
09:39:24 17 26th pretrial filing: objections to witnesses, objections
09:39:27 18 to exhibits, things like that.

09:39:29 19 THE CLERK: They didn't file those. You had
09:39:31 20 said to wait until today.

09:39:32 21 THE COURT: Oh, yes. Okay. Those I think
09:39:37 22 probably should wait. And the reason for that is we're
09:39:40 23 still waiting to figure out whether we have a jury or we
09:39:42 24 don't have a jury. And you may decide to go with certain
09:39:45 25 witnesses if you have a jury. I may even allow, because

09:39:53 1 if -- if it stays the way it is, if the Fifth Circuit
09:39:58 2 rules that there is no jury in this case, because it's
09:40:02 3 equitable, then I won't reopen.

09:40:09 4 But if we -- if they change the landscape and
09:40:14 5 say, well, you're going to have a jury now out of the
09:40:18 6 blue, then I may allow the parties to add additional
09:40:24 7 witnesses. And that may impact our trial date. So we'll
09:40:26 8 have to see where we are, okay?

09:40:28 9 MR. LYNK: And then, Your Honor, one other
09:40:30 10 motion I would bring to your attention, there was a
09:40:33 11 motion filed by Texas earlier to preclude some of the
09:40:36 12 injunctive relief that is sought in the case.

09:40:38 13 Now, that is a motion that we were preparing to
09:40:41 14 include our response to it in Friday's submissions, and
09:40:45 15 then obviously we didn't make submissions on Friday under
09:40:48 16 the circumstances.

09:40:48 17 THE COURT: Right.

09:40:49 18 MR. LYNK: How should we handle now the timing
09:40:52 19 of our opposition to that?

09:40:54 20 THE COURT: I don't remember that motion.

09:40:56 21 MR. LYNK: This is a motion --

09:40:58 22 THE CLERK: It's an opposed motion to exclude
09:41:01 23 relief requested by the plaintiff, filed by the State of
09:41:03 24 Texas on July 3rd.

09:41:06 25 MR. LYNK: So this is a motion that argues that

09:41:08 1 a number of the injunctive relief requests in our
09:41:11 2 complaint are not, in Texas's view, proper under the
09:41:14 3 statute. So they seek to exclude those.

09:41:15 4 THE COURT: Oh, okay. All right. I'm familiar
09:41:17 5 with that.

09:41:18 6 MR. LYNK: So that one I just wanted to clarify
09:41:19 7 when we would need to make our -- our opposition to that
09:41:23 8 and submit that on file.

09:41:24 9 THE COURT: Are you ready to file it?

09:41:26 10 MR. LYNK: This afternoon, no, but certainly by
09:41:29 11 the end of the week or sooner, if needed.

09:41:31 12 THE COURT: File it.

09:41:32 13 MR. LYNK: Okay.

09:41:32 14 THE COURT: By the end of the week -- next
09:41:34 15 week. File it by Monday.

09:41:37 16 MR. LYNK: Thank you, Your Honor.

09:41:38 17 THE COURT: And then you can reply, okay?

09:41:42 18 MS. AL-FUHAID: Is there a particular date by
09:41:44 19 which you would want our reply or just in accordance with
09:41:47 20 the rule?

09:41:47 21 THE COURT: The normal course of events.

09:41:50 22 MS. AL-FUHAID: Okay. Thank you.

09:41:52 23 MR. BRYANT: Your Honor, David Bryant.

09:41:54 24 THE COURT: I was waiting, because now we
09:41:56 25 have -- no. You haven't said anything officially.

09:42:00 1 you're just giving him the information. But we have
09:42:03 2 three, at least. You need to say something. You need to
09:42:06 3 earn your money. Yes?

09:42:08 4 MR. BRYANT: Your Honor, the defendants would
09:42:11 5 suggest that it may be appropriate to wait on resolving
09:42:21 6 some of these motions. I have no problem with going
09:42:23 7 ahead and briefing them, but wait on resolving them until
09:42:26 8 we know whether, among other things, the United States is
09:42:29 9 going to continue with the case, whether they're
09:42:32 10 appealing, until we get closer to trial and we know --

09:42:35 11 THE COURT: I mean, if the United States ends
09:42:37 12 up taking the position -- I've never -- I personally have
09:42:41 13 never seen it -- had it happen in any case I've been
09:42:45 14 involved in, but I have seen it happen in other cases
09:42:47 15 where some of my colleagues had -- and not involving the
09:42:51 16 United States, by the way. It was involving other
09:42:54 17 parties. But they got a negative ruling out of the --
09:42:58 18 interim ruling out of the Ninth Circuit, and they decided
09:43:03 19 they were going to allow the judge to just enter judgment
09:43:08 20 against them, because they could not effectively
09:43:11 21 prosecute their defense, and then immediately appealed on
09:43:18 22 the legal issues that had been decided.

09:43:21 23 Now, if the United States takes that position,
09:43:25 24 obviously, they would have to come to the conclusion that
09:43:28 25 Judge Willett's decision was not precedential and argue

09:43:32 1 that to me. And I would then have to make the ruling
09:43:35 2 that they were right, which I may not.

09:43:41 3 MR. BRYANT: So, Your Honor, the defendants
09:43:42 4 would suggest that, although we can go ahead and brief
09:43:44 5 everything, that the Court wait until after the 60-day
09:43:47 6 period to make the Court's rulings, which the Court may
09:43:50 7 wish to do anyway.

09:43:51 8 THE COURT: Yeah.

09:43:52 9 MR. BRYANT: So that we can have a better
09:43:54 10 picture as to what the procedural posture of the case
09:43:57 11 will be going into a trial or otherwise, maybe on appeal
09:44:03 12 rather --

09:44:04 13 THE COURT: Well, I'm not going to make that
09:44:06 14 decision today. I'll look at the -- I'll look at the
09:44:09 15 filings, and then I'll decide whether it's appropriate to
09:44:11 16 wait or to make a ruling. I don't like to have
09:44:14 17 unresolved motions hanging around. That's a -- it's a
09:44:21 18 bad look, you know. But I'll do what I can. I
09:44:29 19 understand your concern, I do.

09:44:34 20 All right. Anything else?

09:44:40 21 MR. LYNK: Nothing else from the government,
09:44:41 22 Your Honor. Thank you.

09:44:45 23 MR. WALTERS: Your Honor? Ryan Walters.

09:44:46 24 THE COURT: Okay. There you go.

09:44:46 25 MR. WALTERS: I'm taking your advice,

09:44:48 1 Your Honor.

09:44:52 2 THE COURT: Thank you.

09:44:52 3 MR. WALTERS: We would just suggest that if the
09:44:54 4 Court is considering reopening discovery -- so we don't
09:44:57 5 know that yet, whether the Department of Justice wants
09:44:59 6 that -- when the Fifth Circuit rules on our right to a
09:45:06 7 jury trial --

09:45:07 8 THE COURT: I can assure you that that will not
09:45:09 9 happen if they deny the request for a jury trial, only
09:45:15 10 because then that -- that means that the tenor of the
09:45:18 11 case has been the same since its inception.

09:45:22 12 MR. WALTERS: Right. What we're saying --

09:45:22 13 THE COURT: But if they -- if they say the
09:45:25 14 State gets a jury trial or gets a partial jury trial on
09:45:30 15 some issues and not on others, then I would consider it.
09:45:34 16 I'm not saying I would grant it, but I would certainly
09:45:37 17 consider it.

09:45:39 18 MR. WALTERS: But, Your Honor, I guess our
09:45:40 19 position is that, if the Fifth Circuit were to find that
09:45:43 20 we are entitled to a jury trial, the court would have to
09:45:46 21 resolve these motions again because the standard would be
09:45:51 22 different. So we would suggest not wasting the Court's
09:45:54 23 time in resolving these motions before we get a ruling
09:45:57 24 from the Fifth Circuit on --

09:45:58 25 THE COURT: I don't know that the legal

09:45:59 1 standard would be different.

09:46:01 2 MR. WALTERS: Well, the standard for
09:46:03 3 considering, like, experts, whether they're going to be
09:46:06 4 excluded or not, would be different.

09:46:07 5 THE COURT: Oh, I see what you're saying, in a
09:46:10 6 practical sense. Yeah. I would agree with you there. I
09:46:13 7 think that's right. I told you I will take a look at it.
09:46:15 8 I haven't made up my mind on that yet. I'll take a very
09:46:18 9 good look at it, okay.

09:46:20 10 MR. WALTERS: Thank you, Your Honor.

09:46:21 11 THE COURT: I mean, you're the folks that filed
09:46:23 12 the motion to exclude them.

09:46:27 13 MR. WALTERS: Your Honor, if -- if we -- if we
09:46:31 14 could stay all proceedings, then we would withdraw the
09:46:34 15 pending motions.

09:46:35 16 THE COURT: Well, I'm not going to stay
09:46:36 17 everything. There are other things that are going on
09:46:39 18 here we just talked about, but I certainly would stay
09:46:42 19 that. I mean, I wouldn't have to stay it. All I'd have
09:46:45 20 to do is tell you that I would give you leave to refile,
09:46:50 21 okay? I will -- if you withdraw it, you will get leave
09:46:54 22 to refile. And that means that you're safe. You're not
09:46:58 23 going to be time-barred.

09:47:04 24 MR. SULLIVAN: Your Honor, you know, this being
09:47:05 25 I think the second-largest geographic district in the

09:47:08 1 federal judiciary after the District of Alaska, as busy
09:47:10 2 as you are, as busy as Judge Howell is, we would suggest
09:47:13 3 that instead of looking at something twice, that could
09:47:15 4 just be looked at once.

09:47:16 5 THE COURT: I agree with you.

09:47:19 6 MR. SULLIVAN: And so whatever kind of stay
09:47:21 7 comes in Your Honor's order, again, we would respectfully
09:47:25 8 suggest that if it has to do with discovery, so the
09:47:27 9 motions in limine, the expert motions, because all of
09:47:29 10 that could be overtaken by events in a practical sense,
09:47:33 11 if not in a legal standard sense, we would respectfully
09:47:36 12 request clarity so that the parties can pull down any of
09:47:40 13 those kind of discovery motions and fights so that
09:47:41 14 they're not pending on your sheet with Chief Judge Moses
09:47:46 15 or anything like that.

09:47:47 16 THE COURT: Chief Judge Moses is very happy
09:47:49 17 with me at the moment. She's in the same boat I am.
09:47:52 18 Remember, she had the barbed wire case.

09:47:56 19 MR. SULLIVAN: I remember it well, sir. We've
09:47:58 20 had lovely times in Del Rio together as well with our --

09:48:00 21 THE COURT: Yeah. I used to sit in Del Rio. I
09:48:03 22 sat in Del Rio for the first few years I was here. I was
09:48:06 23 on the wheel down there, so I was down there every week.

09:48:09 24 MR. SULLIVAN: Appreciate your service for that
09:48:10 25 sir. So with clarification about discovery along those

09:48:13 1 lines, we can take things off of your, you know, 90-day
09:48:15 2 sheet or whatever it's called here and not do twice what
09:48:19 3 we can do once, if things are overtaken by events.

09:48:24 4 MR. LYNK: From our point of view, I guess I'm
09:48:27 5 not sure if there really is a further issue to resolve.
09:48:32 6 I think your prior comments suggested that there are some
09:48:35 7 things you want to deal with and some things that should
09:48:37 8 wait. And, generally, those seemed to make sense.

09:48:40 9 We can certainly respond, for example, to the
09:48:43 10 motion seeking to strike forms of injunctive relief by
09:48:47 11 Monday, as you've directed. And that doesn't seem to
09:48:51 12 be --

09:48:52 13 THE COURT: Are you concerned about that one?

09:48:55 14 MR. SULLIVAN: No concern there. It's well
09:48:57 15 said by my friend, Mr. Lynk. I suppose that the whole
09:49:00 16 point is we're all obviously going to do whatever the
09:49:03 17 Court, whatever you tell us to do. And so if your order
09:49:07 18 gives us clear marching orders, then we'll run up
09:49:10 19 whatever hills you want us to.

09:49:13 20 THE COURT: Well, let's do this: I think we
09:49:15 21 all agree that -- I think Mr. Lynk is right, and I
09:49:19 22 already said I would rule on that motion. That's purely
09:49:22 23 a legal issue. But I'll stay everything else.

09:49:29 24 MR. SULLIVAN: Thank you, sir.

09:49:30 25 THE COURT: And you're going to withdraw that,

09:49:32 1 then, without prejudice.

09:49:34 2 MR. WALTERS: Thank you, Your Honor.

09:49:35 3 THE COURT: Okay. So he's going to withdraw
09:49:36 4 without prejudice. You don't have to worry about it.
09:49:39 5 But leave the one we talked about.

09:49:41 6 MR. LYNK: So the motion to exclude our witness
09:49:42 7 for now is withdrawn without prejudice.

09:49:45 8 THE COURT: Yes. That's right.

09:49:48 9 MR. SULLIVAN: Thank you, sir.

09:49:48 10 THE COURT: Without prejudice so that he can
09:49:50 11 refile it. I don't want anybody to think they're being,
09:49:53 12 you know, hampered from refiling.

09:49:56 13 MR. SULLIVAN: Thank you, sir. Sorry for the
09:49:59 14 interruption.

09:50:00 15 THE COURT: No. Look. We need all the help we
09:50:03 16 can get around here. So, as usual, my very smart
09:50:31 17 courtroom deputy has a solution. What I'm going to do,
09:50:38 18 all the motions in limine that are on the record now I'm
09:50:40 19 going to deny as moot subject to refiling, and you can
09:50:47 20 then make a decision whether you want to refile those at
09:50:50 21 the appropriate time. We're going to give you deadlines
09:50:53 22 for those.

09:50:54 23 So the only thing that will be left on the
09:50:56 24 docket that I need to worry about is the -- is that one
09:51:01 25 motion we're talking about that he's going to be filing

09:51:04 1 on Monday.

09:51:06 2 THE CLERK: No. The motion to exclude, he's
09:51:07 3 going to file a response.

09:51:08 4 THE COURT: Yeah. The motion to exclude, he's
09:51:11 5 going to file a response.

09:51:15 6 MR. STONE: And, your Honor, there was one more
09:51:17 7 thing mentioned by our friends at the USA. They
09:51:20 8 mentioned filing objections to Magistrate Howell's prior
09:51:25 9 ruling. Is that also going to be stayed, or are they
09:51:26 10 going to proceed forward with that?

09:51:28 11 MR. LYNK: This was specifically -- we had a
09:51:31 12 motion to compel production of an email and a document
09:51:36 13 that were sent to a number of the expert witnesses,
09:51:41 14 Texas's. And Judge Howell reviewed the document and the
09:51:43 15 email in-camera, and then he ordered production of a --
09:51:47 16 of redacted versions of those.

09:51:49 17 THE COURT: And you want --

09:51:50 18 MR. LYNK: Our objection is to the redaction.
09:51:52 19 And so we were preparing to file a notice of objection as
09:51:56 20 that to see the whole document.

09:51:57 21 THE COURT: Don't do that. Just hold it. You
09:51:59 22 can file it later.

09:52:01 23 MR. LYNK: Okay.

09:52:01 24 THE COURT: You'll have time to file that
09:52:04 25 later.

09:52:05 1 MR. LYNK: Thank you.

09:52:06 2 THE COURT: We have to be flexible here. We've
09:52:08 3 got a very -- this -- look. This is a very unusual case,
09:52:15 4 to say the least. I mean, it's about a buoy floating
09:52:21 5 around in the Rio Grande River, after all, all by itself,
09:52:27 6 just bobbing around there.

09:52:31 7 I saw a picture the other day where two people
09:52:34 8 attempting to swim across the Rio Grande. I don't know
09:52:39 9 what they were doing, but they were resting on the buoy.
09:52:42 10 They were using the buoy as a rest. So I don't know.
09:52:46 11 They either go around it or you rest on it, or I don't
09:52:49 12 know what they're doing with the buoy. But there it is,
09:52:52 13 and it's there. And it's been there.

09:52:56 14 And the one thing I would disagree with my good
09:53:03 15 friend Judge Willett about, he made -- he always makes a
09:53:07 16 big deal of the fact that I didn't order the buoy removed
09:53:11 17 from the ocean -- ocean. This is what happens when you
09:53:15 18 decide dozens and dozens of cases involving the Pacific
09:53:20 19 Ocean because I came from Hawaii -- the river. We do
09:53:27 20 have an ocean pretty close.

09:53:32 21 The reason I did not order -- and I've said
09:53:36 22 this in writing, and I'll say it again. The reason I did
09:53:39 23 not order the buoy to be removed from the river, it was
09:53:45 24 put up against the bank so it would not be -- if my order
09:53:49 25 was followed, it would have been moved against the bank.

09:53:54 1 It would not have been a hazard to navigation because it
09:53:58 2 would have been right up against the bank, number one.

09:54:01 3 Number two, it would have saved the taxpayers
09:54:05 4 of the State of Texas tens of thousands of dollars if,
09:54:10 5 for instance, I had ordered it removed, it had been
09:54:13 6 removed, and then ordered placed back in the water, what
09:54:21 7 a waste of money. What an absolute waste of money.

09:54:28 8 And I was proven correct because I made my
09:54:33 9 ruling, that ruling was affirmed, originally, by a
09:54:37 10 three-judge panel. In the meantime, that thing could
09:54:39 11 have been removed. Then the *en banc* order comes along
09:54:44 12 and orders it, it would have to go back. What a waste of
09:54:49 13 money.

09:54:51 14 So I'm sorry, Judge Willett. That's the
09:54:55 15 reason. And I -- I did not want the taxpayers of the
09:55:00 16 State of Texas or the Governor's Office, because he's got
09:55:06 17 other things to spend his money on, to have to spend the
09:55:10 18 money to put it back, you know, in the water if I had
09:55:15 19 ordered it taken out.

09:55:16 20 Plus -- and this is from a kid who worked his
09:55:20 21 way up going through school doing construction -- putting
09:55:26 22 those things in and out of the water -- and I've seen it
09:55:29 23 many times; we have it in Hawaii all the time -- is a
09:55:33 24 dangerous proposition. And especially where those
09:55:39 25 concrete things have been laid down, to pull those out,

09:55:43 1 they get sunken in the mud. To pull those out, you get a
09:55:50 2 snapped chain or you get -- a machine doesn't work or
09:55:52 3 somebody falls in the water between the buoy and the
09:55:55 4 pillar under the water, they could be drowned or killed.
09:56:01 5 It's a hazard.

09:56:03 6 I didn't want that to happen more often than
09:56:07 7 necessary, period. Not because I didn't have faith in my
09:56:14 8 ruling or some such thing. It had nothing to do with it.
09:56:19 9 It had to do with money. I knew this thing would go on
09:56:22 10 appeal. I knew the State would -- I mean, this is the
09:56:26 11 Fifth Circuit. I knew the State had a chance of
09:56:30 12 prevailing. It's -- it was a close call to begin with.

09:56:35 13 And I just didn't want the expense, and I
09:56:39 14 didn't want the danger to those workers of having to go
09:56:43 15 back out there and move it and then remove it and then
09:56:46 16 put it back. It just didn't make sense to me. And that
09:56:51 17 was the reason I did what I did.

09:56:53 18 It had nothing to do -- and I -- to be honest
09:56:58 19 with you, I wouldn't think, knowing Governor Abbott, he
09:57:08 20 would have been unhappy about that. I mean, he wouldn't
09:57:13 21 say, jeez, I wish the judge had ordered it removed from
09:57:16 22 the water. That just would not -- you know, I think he
09:57:25 23 is a very smart man. He was a good lawyer. He was a
09:57:29 24 Supreme Court Justice. I'm sure that he understood what
09:57:32 25 I was doing. And I said it at the time.

09:57:37 1 So I don't know -- understand why my friend
09:57:40 2 Judge Willett, who I have the greatest regard for -- he's
09:57:44 3 a very fine jurist, and he's a nice man -- keeps thinking
09:57:48 4 that I did it because I wanted to -- I didn't have faith
09:57:53 5 in my order. Why did I not just order it removed? Well,
09:57:57 6 there's the reason: safety and money. Safety first and
09:58:02 7 money second.

09:58:05 8 Okay. Anything else?

09:58:09 9 MR. LYNK: No, Your Honor.

09:58:10 10 MS. AL-FUHAID: No, Your Honor. Thank you.

09:58:12 11 THE COURT: Okay. And, by the way, has there
09:58:14 12 been an appeal by the United States of my ruling against
09:58:18 13 you on the treaty issue?

09:58:22 14 MR. LYNK: No, there has not been an appeal
09:58:25 15 taken from that ruling.

09:58:26 16 THE COURT: But that -- you have -- you don't
09:58:28 17 have to file it now.

09:58:30 18 MR. LYNK: Right.

09:58:31 19 THE COURT: You can --

09:58:32 20 MR. LYNK: No interlocutory appeal was taken,
09:58:35 21 correct.

09:58:35 22 THE COURT: I suspect, ultimately, we will have
09:58:37 23 cross-appeals, so I'm in double jeopardy here. He stands
09:58:51 24 by my every day right there. No. I'm pointing to my
09:58:54 25 alabaster eagle. He's always faithful. He doesn't move.

09:58:57 1 He's right there.

09:58:57 2 Thank you all very much. It's good to see you.

09:59:00 3 You can be excused. Thank you.

09:59:00 4 MS. AL-FUHAID: Thank you, Your Honor.

09:59:00 5 (End of transcript)

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1 **UNITED STATES DISTRICT COURT)**

2 **WESTERN DISTRICT OF TEXAS)**

3 I, Arlinda Rodriguez, Official Court Reporter, United
4 States District Court, Western District of Texas, do certify
5 that the foregoing is a correct transcript from the record of
6 proceedings in the above-entitled matter.

7 I certify that the transcript fees and format comply with
8 those prescribed by the Court and Judicial Conference of the
9 United States.

10 WITNESS MY OFFICIAL HAND this the 6th day of August 2024.

11

12 /S/ Arlinda Rodriguez
13 Arlinda Rodriguez, Texas CSR 7753
14 Expiration Date: 10/31/2025
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16 United States District Court
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ARLINDA L. RODRIGUEZ, OFFICIAL COURT REPORTER
U.S. DISTRICT COURT, WESTERN DISTRICT OF TEXAS (AUSTIN)